

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

GERARD A. KIMSEY,

Defendant.

8:08CR359

ORDER

The court is advised that counsel are not available for trial on January 6, 2009 due to scheduling conflicts. Accordingly,

IT IS ORDERED that the court's prior order (Doc. [20](#)) is hereby withdrawn, and defendant's unopposed motion to continue trial (Doc. [19](#)) is granted, as follows:

1. The jury trial now set for Tuesday, December 8, 2008 is continued to Tuesday, **January 13, 2009.**

2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **December 8, 2008 and January 13, 2009**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

DATED November 14, 2008.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge